

**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**PUBLIC MEETING AGENDA**

2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
&  
100 North Barranca Street, Suite 410  
West Covina, CA 91791

**October 11, 2006**  
**10:00 a.m.**

**ROLL CALL:**

Candice A. Traeger, Chairwoman  
Marcy V. Saunders, Board Member  
Robert Pacheco, Board Member

**MINUTES OF SEPTEMBER 27, 2006**

**ADMINISTRATIVE MATTERS**

*(Information regarding the general administration of cases pending before the Appeals Board.)*

1. CALENDARING/CASELOAD

**NEW BUSINESS**

*(The Appeals Board hears and discusses new reports presented by staff.)*

**OLD BUSINESS**

*(The Appeals Board hears and/or discusses matters on a follow-up basis.)*

1. 2007 LEGISLATION  
*(Review and discuss legislation introduced that impacts the Appeals Board.)*
2. 2006/07 BUDGET  
*(Review and discuss budget issues for this fiscal year.)*
3. REGULATORY REVIEW PROPOSALS  
*(Review of the Appeals Board's Rules of Policy and Procedure)*

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**CHAIRWOMAN'S REPORT**

*(Hear report from the Chair on issues affecting the Appeals Board.)*

**BOARD MEMBERS' REPORTS**

*(Hear reports from Board Members on issues affecting the Appeals Board.)*

**EXECUTIVE OFFICER'S REPORT**

*(Report regarding administrative matters and news from the Department and Appeals Board.)*

**STAFF REPORTS**

*(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)*

Any matter not completed at this meeting may be continued to subsequent meetings.

**PUBLIC COMMENT**

*(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)*

**APPEALS**

*(Report of statistics regarding appeals docketed by the Appeals Board for the current month, previous months, and previous four years.)*

Intents to Appeal in September 2006 \_\_\_\_\_  
Total Intents to Appeal to Date \_\_\_\_\_  
Appeals Docketed in September 2006 \_\_\_\_\_  
Total Appeals Docketed to Date \_\_\_\_\_  
Appeals Packets Completed in September 2006 \_\_\_\_\_  
Total Appeals Packets Completed to Date \_\_\_\_\_

	2001	2002	2003	2004	2005	2006
January	387	586	482	357	422	405
February	302	420	405	421	435	320
March	421	320	470	513	400	506
April	372	559	526	416	406	259
May	612	589	359	325	187	588
June	421	384	446	486	517	372
July	410	511	367	320	372	578
August	549	426	345	386	345	498

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September	350	374	448	269	380	
October	482	438	435	425	346	
November	507	368	331	332	326	
December	447	389	621	509	442	
<b>TOTAL</b>	<b>5255</b>	<b>5367</b>	<b>5235</b>	<b>4762</b>	<b>4651</b>	

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled  
Wednesday, October 25, 2006

Cal/ OSHA Appeals Board  
2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
&  
100 North Barranca Street, Suite 410  
West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

**For Further Information**  
**Contact**

Janet M. Eagan  
2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
(916) 274-5751

[oshappeals@dir.ca.gov](mailto:oshappeals@dir.ca.gov)

<http://www.dir.ca.gov/oshappeals/>

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**State of California**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD**  
**CLOSED SESSION AGENDA**  
**Government Code § 11126 (a), (c)(3), and (e)**  
**for**  
**Wednesday, October 11, 2006**  
**10:00 a.m.**  
**Sacramento, California**  
**&**  
**West Covina, California**

**TO: Members of the California Occupational Safety and Health Appeals Board**

**FROM: J. Jeffrey Mojcher, Chief Counsel**

**DATE: September 29, 2006**

**RE: Closed Session of the Board on October 11, 2006**

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

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**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

*(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)*

1. ACTION SHEET METAL, INC., 04-R4D1-1575 THROUGH 1577
2. ARGONAUT CONSTRUCTORS, INC., 04-R1D5-1082
3. BROADLEAF VENISON USA, INC., 04-R4D2-1895
4. CHINO VALLEY MILL, INC., 04-R6D2-1387 THROUGH 1393, 04-R6D2-1478 THROUGH 1486
5. CLEARCHANNEL OUTDOOR, 05-R4D1-1620
6. COSENZA ROOFING, 04-R3D2-1806 THROUGH 1808

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7. DMC ENGINEERING, 05-R4D3-0049
8. D.P. HOLGUIN CONSTRUCTION, INC., 04-R6D2-3072 THROUGH 3076
9. GHILOTTI BROS. CONST. INC., 04-R1D5-2321 AND 2322
10. LYRU ENGINEERING, INC., 04-R6D1-2475 THROUGH 2478
11. PREFERRED PERSONNEL, 04-R3D2-2561
12. SHEA-KENNY, JV, 05-R5D3-2450
13. SMITH DENISON CONSTRUCTION CO., 04-R1D5-1414 AND 1518
14. SOUTHERN CALIFORNIA EDISON, 05-R3D3-1453
15. TODD RUTKIN, INC., 04-R4D2-2111
16. VICTORIA'S SECRET, 04-R3D3-1316 AND 1317
17. VRATSINAS CONSTRUCTION COMPANY, 04-R3D1-2187
18. VULCAN MATERIALS COMPANY, 03-R5D3-5148

**ORDERS OF ADMINISTRATIVE LAW JUDGES:**

*(Written orders issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)*

1. AAA RADIATORS & CATALYTIC MUFFLERS, 04-R4D2-2118 THROUGH 2120
2. A.W. ENGINEERING COMPANY, INC., 03-R4D4-4439 THROUGH 4442
3. ABE'S PLUMBING, 05-R3D1-1434 AND 1435
4. ACADEMY ROOFING, 06-R2D3-3626
5. ACCURATE CONCRETE SAWING, INC., 06-R3D1-1566 AND 1567
6. ADLIN CONSTRUCTION, 03-R4D3-3638 AND 3639
7. AHERN RENTALS, INC., 05-R4D3-143
8. ANTELOPE VALLEY COLLEGE, 05-R4D3-1798

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9. APPLEBEE'S RESTAURANT, 05-R2D1-3896
10. BLT ENT. dba SACRAMENTO RECYCLING & TRANSFER, 04-R2D1-2876
11. BAYSIDE CONSTRUCTION, 04-R4D1-2745 THROUGH 2747
12. BLACKWELL CONSTRUCTION, INC., 05-R4D1-2344 THROUGH 2346
13. RICHER BREault dba QUALITY CONSTRUCTION, 05-R4D1-111 THROUGH 113
14. RONALD G. CARVER dba SIGN-UP, 04-R2D1-1942 AND 1943
15. CITI STAFF SOLUTIONS, 05-R4D2-4437
16. D & D STAFFING INTERNATIONAL, INC., 04-R3D1-1535
17. DAVID BROOKS COMPANY, 04-R3D1-532 THROUGH 538
18. DESIGN WOODWORKING, INC., 03-R6D1-4765 THROUGH 4769
19. DESILVA GATES, 04-R1D3-223
20. DUKE PACIFIC, 04-R4D4-565 AND 566
21. ENGINEERED FRAMING SYSTEMS, 06-R3D1-1415
22. ENTERPRISE PRODUCTS OPERATING LP, 06-R3D7-134
23. EXECUTIVE AIR MAINTENANCE, INC., 06-R3D3-2241 AND 2242
24. FLEX TEMP CORPORATION dba LABOR FINDERS, 05-R4D3-3021
25. GSE CONSTRUCTION COMPANY, INC., 04-R2D1-3726
26. GENERAL COATINGS CORPORATION, 04-R4D1-1004 THROUGH 1006
27. GOLDEN WEST PROPERTIES, 05-R4D2-1361
28. HEINZ U.S.A. dba PORTION PAC, 04-R4D3-562
29. HOME DEPOT USA, INC., dba EXPO DESIGN CTR #6659, 04-R4D1-1686
30. HOT LINE CONSTRUCTION, 05-R4D3-2141

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31. INDUSTRIAL LABOR MANAGEMENT, 06-R3D3-944
32. J & S STAKES, INC., 05-R2D3-4382 THROUGH 4384
33. JSM CONSTRUCTION, INC., 03-R4D2-4384 THROUGH 4388
34. JAVA CITY BAKERY & CAFÉ, 04-R4D2-1894
35. JIM MARTIN CONSTRUCTION CO., INC., 06-R4D2-598 THROUGH 600
36. KNOECRANES INC. dba CRANE PRO SERVICES, 04-R4D2-413
37. LABOR READY, 04-R3D2-1856
38. LABOR READY, 04-R3D2-1857
39. LABORATORY CORPORATION OF AMERICA, A DELAWARE CORPORATION dba LABCORP, 05-R1D3-601 THROUGH 603
40. LAKEVIEW CONCRETE & MASONRY, INC., 05-R3D5-036
41. LANDSCAPE DEVELOPMENT, 04-R4D3-2127
42. LASZLO DOMA dba TELE-CAR, 04-R3D5-274
43. LOWES HOME IMPROVEMENT INC, 06-R3D3-2238 AND 2239
44. MAGCO DRILLING, 06-R3D5-1854 AND 1855
45. MARBORG INDUSTRIES, 04-R4D5-063 AND 064
46. MARK ANTHONY GLAZING CONTRACTOR, 04-R4D1-557 THROUGH 559
47. MARSHALLS DEPARTMENT STORE, 04-R4D2-2773
48. J. E. MERRITT, 04-R3D5-681
49. METAL POWDER PRODUCTS, 05-R3D1-2928 AND 2929
50. MEYARRCHI INT'L dba METRO AUTO DISMANTLING, 05-R2D1-006
51. MORA CONSTRUCTION, 03-R3D5-4933 AND 4934
52. NFU ELECTRIC, INC., 04-R4D4-1630 THROUGH 1633
53. NATURAL PEST CONTROLS AND FIREWOOD, 04-R2D1-2877

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- 54. O.M. CONTRACTING, INC., 06-R3D3-1087
- 55. ONE STOP DOOR SHOP, INC., dba ONE STOP WINDOWS & DOORS, 04-R3D5-1164
- 56. ORANGE HOUSING DEVELOPMENT CORPORATION, 06-R3D1-1561
- 57. PGP INTERNATIONAL, A DIVISION OF ACH FOOD COMPANIES, INC., A DELAWARE CORPORATION, 05-R2D1-2199 THROUGH 2202
- 58. PACIFIC SOUTHWEST STRUCTURES, 04-R3D2-2190 THROUGH 2192
- 59. PACTIV CORP., 06-R3D7-581
- 60. PILOT HILL SERVICES, LLC, 04-R2D1-3824
- 61. PLASTICORP, 06-R3D5-0060 THROUGH 0062
- 62. PRECISION POWDERED METAL PARTS, INC., 04-R4D4-294 THROUGH 296
- 63. QUALITY FIRST WOODWORKS, 04-R6D2-3011 THROUGH 3020
- 64. R.J. McGLENNON COMPANY, INC., 04-R1D1-1824
- 65. RAMPART HYDRO SERVICE, 04-R3D5-1769
- 66. RAPID BROADBAND TECH, 05-R2D3-2215
- 67. RINK MANAGEMENT SERVICES CORPORATION dba PALOS VERDES ICE CHALET, 04-R3D5-2576
- 68. ROBERTSON'S READY MIX LTD, 05-R3D3-3435
- 69. ROBERT WORTH, INC., 04-R4D3-3167 AND 3168
- 70. ROCK ENTERPRISES CONSTRUCTION COMPANY, 04-R3D2-1951
- 71. RUDOLPH AND SLETTEN, 04-R4D2-1689
- 72. SAFEWAY STORE 790-5, 04-R1D4-672 AND 673, 3896
- 73. SCEPTER COMPANY, 05-R1D4-2771 THROUGH 2773
- 74. SHASTA ELECTRIC LP, 05-R4D2-4435



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75. SIXELLS, LLC, 04-R2D1-1599 THROUGH 1601
76. SPIRE TECHNOLOGIES, 05-R1D4-4064
77. SUNSET FLOORS, INC., 04-R4D1-1003
78. SUNSHINE MASONRY, 05-R4D3-1526
79. SYNPEP CORPORATION, 03-R1D4-4822 THROUGH 4831
80. TEMPUS LLC dba EMERALD HEALTH SERVICES, 05-R2D1-3706
81. TEXACO EXPRESS LUBE, 06-R3D3-1078 THROUGH 1080
82. TEXAS BUILDERS, 06-R3D3-1084 THROUGH 1086
83. TIP TOP CONSTRUCTION, 04-R4D1-2395
84. TSUTSUI ENTERPRISE, INC., 04-R2D1-822
85. TUNGSTEN HEAVY POWDER, INC., 04-R3D2-785 THROUGH 787
86. UKA'S BIG SAVER FOODS, INC. STORE #13, 05-R4D4-3207 THROUGH 3209
87. VAP INTERNATIONAL, 05-R2D3-4248 AND 4249
88. WALLDESIGN INC., 05-R4D1-2695
89. WESLAR INC., 04-R4D3-1022 THROUGH 1024
90. WEST COVINA UNIFIED SCHOOL DISTRICT, 05-R4D4-3779 THROUGH 3797,  
06-R4D4-085 THROUGH 099
91. WOODLAND FARMS, INC., 05-R6D2-2026 THROUGH 2030

**ORDERS DISMISSING APPEALS:**

*(Written order issued by an Administrative Law Judge disposing of an Employer appeal.)*

1. KENNY-SHEA-TRAYLOR-FRONTIER-KEMPER JV, 04-R5D2-1915
2. KENNY-SHEA-TRAYLOR-FRONTIER-KEMPER JV, 04-R5D2-1916
3. MILLENARY MILLS CORPORATION dba YENOH BAKERY, 05-R4D1-533  
THROUGH 536

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4. RICCHI APPAREL, INC., 03-R4D2-4953 AND 4954

**PETITIONS FOR RECONSIDERATION:**

*(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)*

1. GHILOTTI BROS CONTRACTORS, INC., 06-R1D5-9050
2. J & T PLASTERING, 06-R4D2-9057 THROUGH 9061
3. WESTERN MILLING, LLC, 06-R2D5-9039 AND 9040

**DENIAL OF PETITION FOR RECONSIDERATION (DRAFT):**

1. JAMES HIGBY ENGINEERING, 02-R4D3-4562 AND 4563

**DECISIONS AFTER RECONSIDERATION (DRAFTS):**

*(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)*

1. HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619  
ACTION: Returned from September 27, 2006 Board meeting for further discussion and review.
2. A & C LANDSCAPING, INC., aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AC FRAMERS INC., 03-R2D3-3475
4. BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
5. BLUE DIAMOND MATERIALS, 02-R5D2-1268
6. BRYDENCOT METAL PRODUCTS, 03-R3D3-3554 AND 3555
7. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
8. CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
9. DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114

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10. E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
11. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
12. GLASS PAK, 03-R2D2-0750 AND 0751
13. HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
14. HEARN CONSTRUCTION, INC., 02-R6D1-3533 THROUGH 3536
15. HUSSMAN CORPORATION, 03-R3D1-2939
16. ILH CONSTRUCTION, 02-R1D1-4171 & 4172
17. J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
18. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
19. KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 THROUGH 1209 & 02-1273
20. KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
21. LONG BEACH CITY COLLEGE, 03-R3D5-2747
22. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
23. MCI WORLDCOM INC., 00-R1D1-440 THROUGH 442
24. McDONALDS #10660, 03-R1D3-4116 & 4117
25. NIBBLELINK MASONRY CONSTRUCTION, 02-R3D3-1399 THROUGH 1401
26. NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 THROUGH 202
27. PMR RACE CARS, 03-R3D3-1824 & 1825
28. POUK & STEINLE, INC., 03-R4D2-1495 & 1496
29. RII PLASTERING INC., 02-R3D1-2679
30. SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 THROUGH 1656
31. SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
32. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986

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- 33. SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
- 34. TRIO METAL, 03-R4D4-0316 & 0317
- 35. UNITED AIRLINES, 00-R1D5-2844
- 36. WESTERN DOOR, 01-R3D1-2827
- 37. WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

**ORDER OF REMAND**

*(The Appeals Board may send appeals it has reconsidered to Hearing Operations for further proceedings.)*

- 1. PASHA STEVEDORING & TERMINALS, L.P., 06-R6D2-725

**PENDING LITIGATION**

*(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)*

**SUPERIOR COURT:**

- 1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
- 2. HARBOR SAND & GRAVEL, INC., 03CS00974 (01-1016)
- 3. LUIS E AVILA (E & L AVILA LABOR), ECU01582 (00-4067)
- 4. MOUNTAIN CASCADE, 03CS01655 (01-3561)
- 5. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)
- 6. BLF FRAMING, INC., 04CS01618 (02-1837/38)
- 7. DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

**APPELLATE COURT:**

- 1. C. OVERAA & CO., CO51245 (04CS00570) 01-3560

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2. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

**OTHER LEGAL MATTERS**

*(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)*

**PERSONNEL** *(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.